



## **LIBRARY OF CONGRESS**

### **Copyright Office**

#### **37 CFR Part 201 and 210**

**[Docket No. 2012-7]**

#### **Mechanical and Digital Phonorecord Delivery Compulsory License**

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of proposed rulemaking: Extension of comment and reply comment periods.

**SUMMARY:** The Copyright Office is extending the deadline for filing comments and reply comments regarding its Notice of Proposed Rulemaking concerning regulations for reporting Monthly and Annual Statements of Account for the making and distribution of phonorecords under compulsory licenses obtained pursuant to 17 U.S.C. 115.

**DATES:** Comments on the proposed regulation must be received in the Office of the General Counsel of the Copyright Office no later than 5 pm Eastern Daylight Time (EDT) on October 25, 2012. Reply comments are due November 26, 2012.

**ADDRESSES:** The Copyright Office strongly prefers that comments be submitted electronically.

A comment submission page is posted on the Copyright Office Web site at

<http://www.copyright.gov/docs/section115/soa/comments/>. The website interface requires submitters to complete a form specifying name and other required information, and to upload comments as an attachment. To meet accessibility standards, all comments must be uploaded in a single file in either the Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The maximum file size is 6 megabytes (MB). The name of the submitter and organization should appear on both the form and the face of the comments. All comments will be posted publicly on the Copyright Office website exactly as they are received, along with names and organizations if provided. If electronic submission of

comments is not feasible, please contact the Copyright Office at (202) 707–8380 for special instructions.

**FOR FURTHER INFORMATION CONTACT:**

Tanya Sandros, Deputy General Counsel, or Stephen Ruwe, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. *Telephone:* (202) 707–8380. *Telefax:* (202) 707–8366.

**SUPPLEMENTARY INFORMATION:**

On July 27, 2012, the Copyright Office published a notice of proposed rulemaking and request for comments concerning a new regulation that would amend the regulations for reporting Monthly and Annual Statements of Account for the making and distribution of phonorecords under the compulsory license, 17 U.S.C. 115, to bring the regulations up to date to reflect recent and pending rate determinations by the Copyright Royalty Judges, which among other things provide new rates for limited downloads, interactive streaming and incidental digital phonorecord deliveries, and to harmonize these reporting requirements with the existing regulations for reporting the making and distribution of physical phonorecords, permanent downloads and ringtones. The notice of proposed rulemaking stated that comments would be due no later than September 25, 2012 and that reply comments would be due October 25, 2012.

On September 5, 2012, the Office received a joint motion to extend the comment and reply comment period by thirty days each (i.e. until October 25, 2012 and November 26, 2012). The motion was filed by the Recording Industry Association of America, Inc., National Music Publishers Association, Songwriters Guild of America, Digital Media Association, and Music Reports, Inc., (“Joint Requestors”). The Joint Requestors stated that they represent the most active institutional participants in the mechanical compulsory license system. They stated that it was their view that it would be beneficial to the Copyright Office and to the outcome of the proceeding for the Joint Requestors to formulate and submit consensus positions on as many of

the issues raised in the Notice of Proposed Rulemaking as possible. They added that a process for formulating such positions is currently underway. However, they offered that additional time would likely be necessary to allow the Joint Requestors to adequately think through the issues, consult further with their respective members, discuss consensus positions, and prepare a written submission setting forth whatever consensus positions the group is able to reach. They stated that without an extension of time, the Joint Requestors will be less likely to reach consensus and provide the Office unified comments concerning the various issues raised in the NPRM.

In the interest of giving the Joint Requestors the necessary time to conclude the ongoing process of formulating consensus positions, the Office has decided to grant the request for an extension to file comments and reply comments by thirty days in each case, making the comments due on October 25, 2012 and reply comments due on November 26, 2012).

**Dated:** September 6, 2012

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Tanya Sandros,  
Deputy General Counsel.

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